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BEFORE THE FILE

**Federal Communications Commission**  
WASHINGTON, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of	)	MM DOCKET NO. <u>93-107</u>
DAVID A. RINGER	)	File No. BPH-911230MA
ASF BROADCASTING CORPORATION	)	File No. BPH-911230MB
WILBURN INDUSTRIES, INC.	)	File No. BPH-911230MC
SHELLEE F. DAVIS	)	File No. BPH-911231MA
WESTERVILLE BROADCASTING COMPANY LIMITED PARTNERSHIP	)	File No. BPH-911231MB
OHIO RADIO ASSOCIATES, INC.	)	File No. BPH-911231MC
For Construction Permit	)	
For New FM at Westerville, Ohio	)	

To: Administrative Law Judge Walter C. Miller

OPPOSITION TO MOTION TO COMPEL

Westerville Broadcasting Company Limited Partnership ("WBC") herein opposes the Motion to Compel filed by Shellee F. Davis ("Davis") on June 7, 1993. In opposition, the following is stated:

Through her motion, Davis seeks to compel the production of fourteen categories of documents purportedly relevant to the standard comparative issue. Davis' document request was directed to all applicants in this proceeding without any attempt to tailor the request to the particular circumstances of each applicant. Davis' document requests are unnecessarily burdensome and overly broad in light of the fact that all parties already have produced documents pursuant to Section 1.325(c)(1) of the Rules, the Standard Document Production Order. Essentially, Davis is engaging

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*[Signature]*

in the same sort of "laundry list" discovery techniques that so burden the comparative hearing process that the Commission was compelled to adopt a Standard Document Production Order.

WBC offers the following specific objections regarding certain Davis' document requests:

Request No. 1. The information called for in subparts (a) and (c) of this request are already a matter of record in WBC's Integration and Diversification Statement. Davis claims that she wants to test the accuracy of those statements. She certainly will have the opportunity to do that through the depositions of WBC's principals. The production of further documents at this time simply would be cumulative. With respect to subpart (b), calling for disclosure of the salary or compensation to be received by each integrated principal, the information sought is meaningless, at least with respect to WBC. In light of the fact that Mr. Edwards will be the sole controlling principal of WBC and hold 35-1/3% of the equity, his financial motivation obviously is based upon the ultimate success of WBC's station, as opposed to a proposed salary, if any.

Request No. 2. Davis recites that production of all resumes, biographies, curricula vitae and similar documents regarding Mr. Edward would provide "relevant background information concerning Mr. Edwards' past record in the broadcasting field." But WBC is not seeking any past broadcast experience enhancement for Mr. Edwards. Davis also claims the documents would allow her to explore "Mr. Edwards' past history of maintaining employment for

meaningful periods of time, and therefore his ability to effectuate his integration proposal." Motion to Compel at p. 3. Mr. Edwards' past employment history has no bearing on his willingness or ability to fulfill his integration pledge. Whether he has changed jobs every six months or held the same job for decades will not help prove or disprove the bona fides of his integration proposal. It appears that Davis simply is engaging in pointless prying.

Request Nos. 5 and 6 are moot in light of the fact that Mr. Edwards claims no prior broadcast experience.

Request No. 7. Through this document request, Davis seeks "[a]ll documents that evidences" the amount of time that Mr. Edwards "currently devotes or will devote in the future to his current occupations." WBC's Integration and Diversification Statement reports that Mr. Edwards "will terminate his present employment, and any future employment, in order to be available for this full-time position [i.e., General Manager of WBC's proposed station]." Accordingly, the documents requested have no bearing whatsoever on the standard comparative issue.

Request No. 9. Through this document request, Ms. Davis seeks all documents that evidence the reason why any integrated principal left any position of employment during the last 20 years. What possible relevance could these documents have? Davis argues that such documents would permit her to learn "whether Mr. Edwards has been unable or unwilling to maintain long-term involvement in past employment positions." Motion to Compel at p. 5. Such an inquiry is meaningless. Mr. Edwards, as WBC's sole voting principal will

be his own "boss." Mr. Edwards is not likely to fire himself. As noted above, whether Mr. Edwards has changed jobs frequently or rarely has no bearing whatsoever on his commitment to work full-time at the Westerville station, in which he will have a significant equity interest.

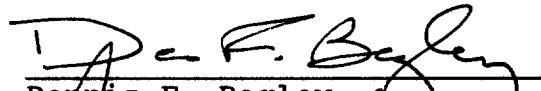
Request No. 10. Through this request, Davis seeks documents regarding any "intention or efforts of any integrated principal to leave their employment in order to become employed in a management position at an Applicant's Proposed Station." In light of the fact we are only at the beginning of a long comparative process and in light of the fact the prevailing applicant will have 18 months in

Request No. 14. In light of the Presiding Judge's Memorandum Opinion & Order, FCC 93M-352 (released June 11, 1993) granting the motion of Ohio Radio Associates, Inc. ("ORA") to compel the production of all bank checks related to WBC's application, WBC no longer objects to Request No. 14 to the extent that it calls for production of bank checks falling into the category specified in Request No. 14. The production of documents other than bank checks, if any, would serve no purpose. Essentially, such discovery would be cumulative.

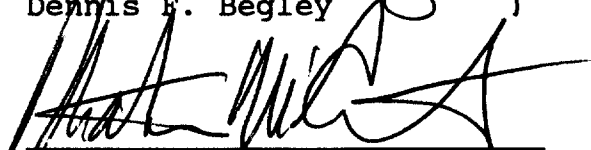
WHEREFORE, in light of all circumstances present, Davis' Motion to Compel against Westerville Broadcasting Company Limited Partnership should be DENIED.

WESTERVILLE BROADCASTING COMPANY  
LIMITED PARTNERSHIP

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June 15, 1993

**CERTIFICATE OF SERVICE**

I, Marilyn Phillips, hereby certify that on this 15th day of June, 1993, copies of the foregoing **Opposition to Motion to Compel** were hand delivered or mailed, first class, postage prepaid, to the following:

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